

## **REMARKS**

### **Summary of the Office Action**

In the Office Action, claims 1-3 and 5 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,735,022 to *Niedecker*.

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Niedecker* in view of Japanese Patent No. 2002/293364 ("*JP'364*").

Claims 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form.

### **Summary of the Response to the Office Action**

Claims 19-25 have been restricted and withdrawn by the Examiner. Claims 9-18 are cancelled. Claim 26 has been added. Applicant respectfully submits that the features of the present invention are not taught or suggested by the applied references of record. Accordingly, claims 1-8 and 26 are presently pending for consideration.

### **Allowable Subject Matter**

Applicant wishes to thank the Examiner for indicating allowable subject matter in claims 6-8. Based on the following remarks, Applicant believes claims 1-5 and 26 are also allowable.

### **Information Disclosure Statement**

Applicant submitted an Information Disclosure Statement on August 10, 2006. Applicant thanks the Examiner for acknowledging the Information Disclosure Statement by initialing the PTO 1449 form and returning a copy to Applicant.

**All Claims Comply With 35 U.S.C. § 102(b)**

Claims 1-3 and 5 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,735,022 to *Niedecker*. Applicant respectfully traverses the rejection for at least the following reasons.

Applicant respectfully submits that the Office Action has not established that *Niedecker* anticipates each and every feature of Applicant's claimed invention and that all rejections under 35 U.S.C. § 102(b) should be withdrawn. *Niedecker* does not disclose at least "each of the binding pieces comprising a clip having a pair of leg portions and a receiving member having a pair of holes for pinching to bind a bag opening portion by the receiving member and the clip *by press-fitting the pair of leg portions of the clip to the pair of holes of the receiving member*," as recited in claim 1. Emphasis added.

*Niedecker* does not disclose a press-fit binding piece because Figs. 7-8 of *Niedecker* demonstrate that the fastening mechanism (16, 17-21, 22) includes detent steps 17-21, a detent arm 16, and a tongue 22, which are not press-fit. The detent arm 16 of the first clip part 1 engages the tongue 22 of the second clip part 2 with their detent steps 17-19 and 20-21, respectively. In a closed position, additional pressure to the first clip part 1 disengages the detent arm 16 from the tongue 22 at least until the pressure is reduced and the detent steps re-engage each other. Thus, it cannot be asserted that this fastening mechanism is press-fit. See col. 4, lines 16-34 of *Niedecker*. The same holds true for the cross bar 8 of the first clip part 1 and the arcuate arm 13 of the second clip part 2. The arcuate arm 13 contacts the cross bar 8, but there is

no engagement or press-fitting situation. See col. 4, lines 12-56 of *Niedecker*. Accordingly, *Niedecker* fails to teach or suggest each and every feature of claim 1. Thus, the rejection of claim 1 should be withdrawn.

As pointed out in MPEP § 2131, a claim is anticipated by a prior art reference only if each and every element as set forth in the claim is found. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051 (Fed. Cir. 1987). Therefore, Applicant respectfully asserts that the rejection under 35 U.S.C. § 102(b) should be withdrawn because *Niedecker* does not teach or suggest each feature of independent claim 1.

Additionally, Applicant respectfully submits that dependent claims 2-3 and 5 are also allowable insofar as they recite the patentable combinations of features recited in claim 1, as well as reciting additional features that further distinguish over the applied prior art.

**All Claims Comply With 35 U.S.C. § 103(a)**

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Niedecker* in view of *JP'364*. Applicant respectfully traverses the rejection for at least the following reasons.

Independent claim 1 recites “each of the binding pieces comprising a clip having a pair of leg portions and a receiving member having a pair of holes for pinching to bind a bag opening portion by the receiving member and the clip *by press-fitting the pair of leg portions of the clip to the pair of holes of the receiving member.*” Emphasis added. As demonstrated above, these features are not taught or suggested by *Niedecker*. Further, *JP'364* does not make up for, teach, or suggest the deficiencies above-mentioned in *Niedecker*; *JP'364* is only relied upon for a teaching of a connecting portion formed in a taper shape. Accordingly, claim 1 is not made

obvious by *Niedecker* and *JP '364*. Thus, *JP '364* does not overcome the deficiencies of *Niedecker*, and the rejection of dependent claim 4 may be withdrawn.

**New Claims**

Applicant respectfully requests allowance of dependent claim 26, which depends from independent claim 1. The claim is allowable insofar as it recites the patentable combinations of features recited in its base claim, as well as reciting additional features that further distinguished over the applied prior art.

Accordingly, in view of the above amendments, claim 26 is allowable and pending for further consideration.

**CONCLUSION**

In view of the foregoing, Applicant respectfully requests reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of the Response, the Examiner is invited to contact the Applicant's undersigned representative to expedite prosecution.

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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